IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8023 OF 2006

Datta Maharaj Devasthan Charitable Trust & Ors... ....Petitioners.
V/s
Shau Satya Shodhak Samaj & Ors.... ....Respondents.

Mr.Rahul P. Walvekar, Adv. For the petitioners.

Mr.P.M.Palshikar, Adv. For respondent No.1.

Mr.Surel S. Shah, Adv. For respondent Nos. 2 to 5.

CORAM: A.P.DESHPANDE, J.
5/7/07

PC:

Rule.

Rule made returnable forthwith.

By consent of parties taken up for final hearing.

The present petitioner is the original plaintiff. The petitioner is a Public Trust registered under the provisions of Bombay Public Trust Act. A suit came to be filed in the name of "Shree Dattamaharj Devasthan Trust". It appears that after filing of the suit the trustees realised that the registered name of the trust varies a bid. The name of the trust as is registered with the Public Trust Registrar is "Dattamaharaj Temple". The plaint has given the address of the trust and all other particulars including the public trust registration number. It is no one's case that

there are two trusts existing at the said place or nearby. On realising the mistake in regard to cause title of the plaint the petitioner moved an amendment application seeking to correct the name of the plaintiff from "Shree Dattamaharj Devasthan Trust" to "Shree Dattamaharaj Temple". The said application was opposed and the trial Court rejected the application by holding that the amendment in the cause title of the plaint amounts to withdrawal of an admission. The trial Court has committed patent illegality in equating the change in the name in cause title as amounting to withdrawal of admission. The amendment prayed for is formal in nature and goes to correct the name, so as to resemble the same with the one as is appearing in the Public Trust Register. The proposed amendment does not change nature of the suit and does not cause any prejudice to the defendants. Hence same ought to have been allowed. Rejecting the application may cause technical hurdles in the way of the plaintiff. Hence writ petition deserves to be allowed. Allowing the amendment application would sub serve ends of justice. Impugned order passed by the 3rd Civil Judge, Senior Division, Kolhapur dated 13.10.2006 below Exh.80 is quashed and set aside. Amendment application filed by the petitioner below Exh.80 is allowed. Rule made absolute in above terms.

5.7.07